

ETHICS TRAINING



As of
30 JUL 09

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DISCUSSION TOPICS

- What forms the Ethics Rules and the Code of Ethics – 14 Principles
- Use of Communications Equipment
- Use of Government Property
- Family Readiness Groups
- Personal and Official Participation in Private Organizations
- Military Balls
- Post-Government Employment

Applicable Law And Regulations



All federal employees should also be familiar with other statutory and regulatory prohibitions:

- Code of Ethics – 14 Principles
- Standards of Ethical Conduct for Executive Branch Employees 5 C.F.R. Part 2635
- The Joint Ethics Regulation (JER), DoD 5500.7-R.
- 18 United States Code Sections 203, 207, 208.

CODE OF ETHICS

PRINCIPLES OF ETHICAL CONDUCT

1. Public Service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.
2. Employees shall not hold financial interests that conflict with the conscientious performance of duty.
3. Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.
4. An employee shall not, except as [provided for by regulation], solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.
5. Employees shall put forth honest effort in the performance of their duties.
6. Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government.
7. Employees shall not use public office for private gain.

8. Employees shall act impartially and not give preferential treatment to any private organization or individual.
9. Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.
10. Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.
11. Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.
12. Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those--such as Federal, State, or local taxes--that are imposed by law.
13. Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.
14. Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or ethical standards. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.



USE OF GOVERNMENT COMMUNICATIONS EQUIPMENT



ETHICS PRINCIPLES

- **Public service is a public trust (#1)**
- **Duty to protect and conserve Government property (#9)**
- **Government resources may only be used for authorized purposes (#9)**

OFFICIAL AND AUTHORIZED USE ONLY

- Official and Authorized
Use only
- Telephones
- Fax Machines
- Computers
- E-mail
- Internet



OFFICIAL USE

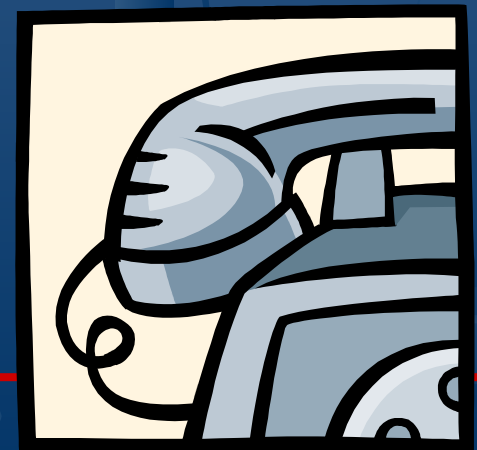
- Communications that are necessary in the interest of Government
- Emergency communications
- Morale and welfare communications (extended deployments)

AUTHORIZED USE

- Personal communications from office
 - Does not adversely affect official duties
 - Reasonable duration and frequency
 - Legitimate public interest
 - Does not reflect adversely on DOD
 - Does not overburden communications system
 - Creates no significant additional cost
- Brief calls home while TDY (transportation and schedule changes)

CELL PHONES

- Official Use
- Limited Authorized Use Permissible under AR 25-1 (15 Jul 05) – land line “wired” phone must not be available



CELL PHONES – LIMITED AUTHORIZED USE

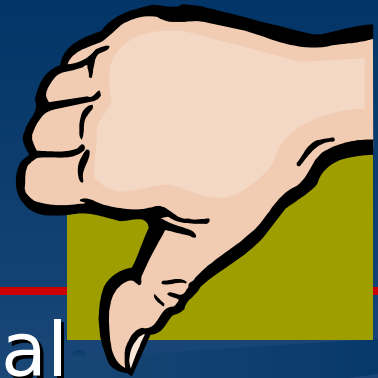
- Authorized Use
 - Does not adversely affect official duties
 - Reasonable duration and frequency
 - Legitimate public interest
 - Does not reflect adversely on DOD
 - Does not overburden system
 - Creates no significant additional cost
- **Land Line Phone Must Not Be Available**

E-MAIL AND INTERNET



- Official Use
- Authorized Use
 - Brief internet searches
 - E-mailing directions to visiting relatives
 - Scheduling doctor or home repair appointments
- Authorized use may not interfere with official duties or undermine readiness
- May not overburden communications system

No No's!



- Pornography or obscene material
- Copyright infringement (such as the sharing of copyright material by means of peer-to-peer software)
- Gambling
- Unofficial advertising, soliciting, or selling except on authorized bulletin boards established for such use
- Chain letters
- Inappropriately handled classified information

BEWARE!

Also, check local command policy.

It can be more restrictive than the JER or AR 25-1 or AR 25-2.



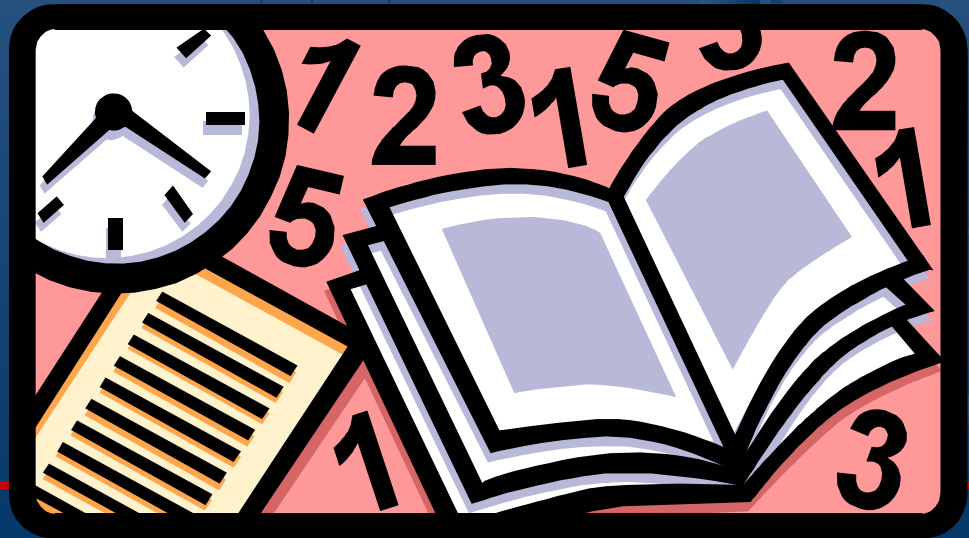
USE OF OTHER GOVERNMENT EQUIPMENT

- Use other Federal Government equipment and property only for official purposes or authorized purposes as approved by your supervisor.



USE OF OFFICIAL TIME

- **Rule:** Use official time in an honest effort to perform official duties.
Remember: Your time is a Government Resource!



USE OF PERSONNEL



- **Rule:** Do not ask subordinates to perform tasks outside their official duties.



FAMILY READINESS GROUPS



FAMILY READINESS GROUPS

- Family Readiness Groups (FRGs) are official “command sponsored” Army programs
- Primary purposes of FRGs:
 - Disseminate information
 - Ensure personal and family readiness
 - Provide mutual support and assistance
- Formerly known as Family Support Groups (FSGs)

OFFICIAL SUPPORT FOR FRGs

- **Appropriated funds are authorized for FRG mission activities**
- **Government office space and equipment may be used for FRG mission activities**



FUNDRAISING



- **FRGs have limited fundraising authority**
- **FRGs may create informal funds**
- **Members of FRGs may only fundraise for informal funds among their own members**
- **What does this mean?**

FRGs & PRIVATE ORGANIZATIONS

- Individuals may establish private organizations (POs) that share goals and objectives of FRGs

Remember: These are non-Federal entities!

- These POs may fundraise IAW the Joint Ethics Regulation

Remember: These are non-Federal entities!

FRGs & PRIVATE ORGANIZATIONS

continued

- To prevent conflicts of interest, leaders of these POs should not be FRG leaders

Remember: These are non-Federal entities!

- These POs may not receive preferential treatment from the Army

Remember: These are non-Federal entities!

OFFICIAL AND PERSONAL PARTICIPATION IN PRIVATE ORGANIZATIONS



ETHICS PRINCIPLES

- **No Preferential Treatment to any Non-Federal Entity (NFE) (#8)**
- **Do not misuse public office for private gain (#7)**
- **Government resources may only be used for authorized purposes (#9)**
- **Avoid conflicts of interest (#2)**

AR 210-22

- AR 210-22, Private Organizations on Department of the Army Installations
 - Outlines Army policy
 - Tells procedures to establish
 - Lists authorized activities
 - Lists prohibited activities
- Consult the JER for authorized support

OFFICIAL PARTICIPATION IN POs or NFEs



ATTENDANCE IN AN OFFICIAL CAPACITY

A supervisor (officer or employee above GS-11) may permit DOD employees to attend meetings, conferences, seminars sponsored by private organizations **if there is a legitimate Government purpose**

PROVIDING SPEAKERS & PANEL MEMBERS



A Commander or head of an Arm organization may provide DOD employees in their official capacities to speak at private organization events.

- ***But, there are seven factors that need to be weighed and the fee charged for those to attend must be reasonable.***
- **Contact your ethics counselor.**

OFFICIAL MANAGEMENT PROHIBITED

- General rule: You may **not** participate in the management of a private organization as part of your official duties



OFFICIAL MANAGEMENT

Army employees, to include Soldiers, may only participate in the management of a non-Federal entity in an official capacity *if authorization is received from the Secretary of the Army and the DOD General Counsel*



LIAISONS WITH NFEs

- **The head of an Army organization may appoint a liaison to an NFE, including a private organization**
- **Requires determination of significant and continuing DOD interest required**
- **The liaison represents only the Army's interest in matters of mutual interest, but cannot bind the Army to any action**

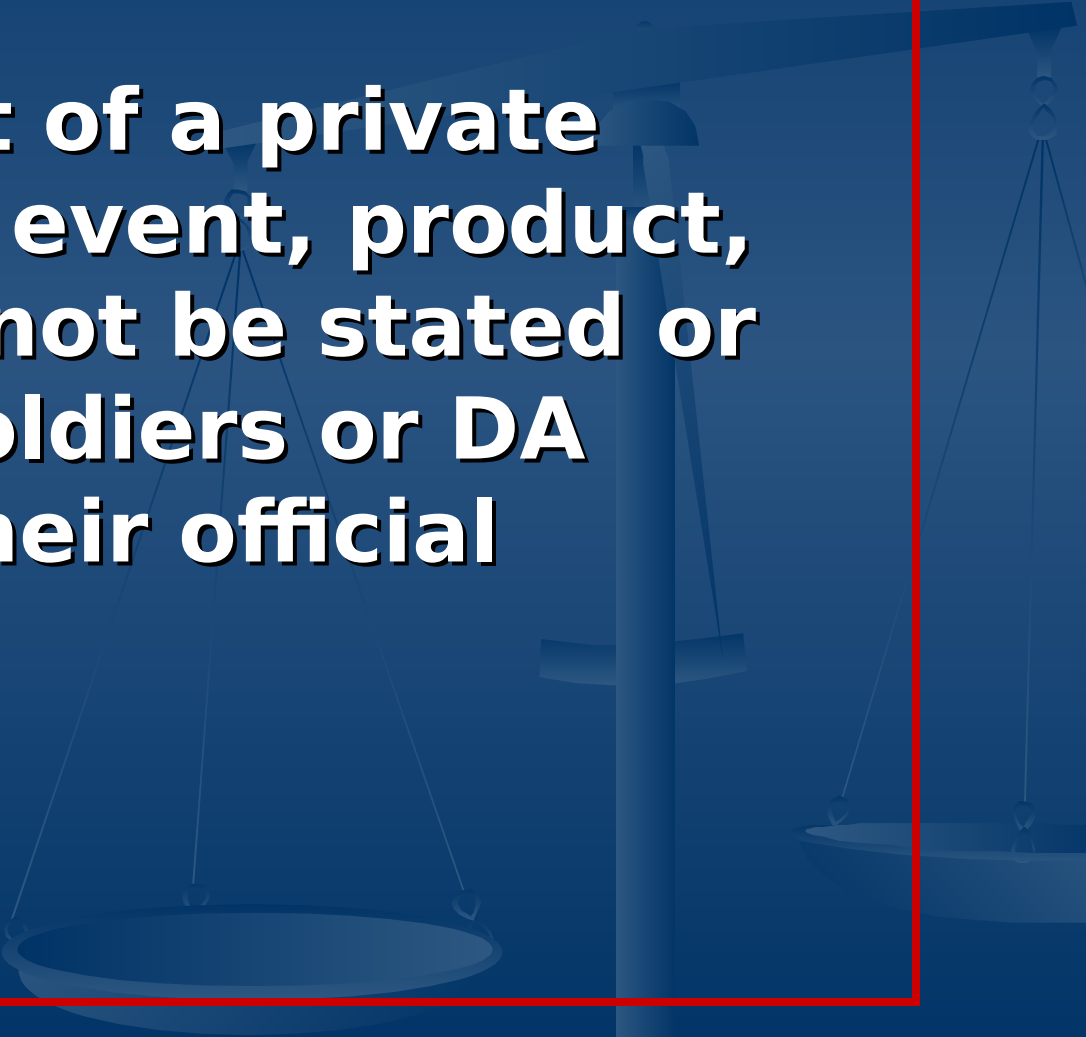
LIAISONS WITH NFEs

Continued

- A liaison **cannot** participate in the management or control of a NFE
- Cannot be a full time position for any Soldier or civilian employee
- Must be appointed

OFFICIAL ENDORSEMENTS

Endorsement of a private organization event, product, service may not be stated or implied by soldiers or DA civilians in their official capacities

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Exceptions to Endorsements

- **Exceptions:**

- **CFC**
- **AER**
- **Disaster Appeals approved by OPM, and**
- **Organizations consisting of Army/DoD employees/dependents when conducting internal fundraising for informal funds when approved by the Commander**

PERSONAL PARTICIPATION IN PRIVATE ORGANIZATIONS



PERSONAL PARTICIPATION

- Soldiers and Army civilians may join, participate in, or hold office in POs or NFEs in their personal capacities
- When participating in POs or NFEs, Soldiers and Army civilians must act ***exclusively*** outside the scope of their official positions

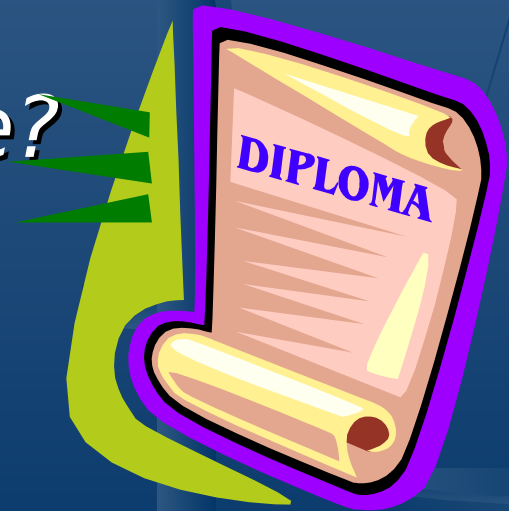
PERSONAL PARTICIPATION

- Soldiers and Army civilians may **not** use official titles/positions/organization names in connection with private organization or NFE activities
- Exception: A Soldier may use his/her grade and military department as part of his/her name (e.g., Major Smith, U.S. Army). **But, cannot use title or position to induce or coerce others to join**

You Make the Call!

A Soldier has been asked by his college to serve on the Alumni Association.

Is this permissible?



ANSWER



- He may serve in his personal capacity.
- But, he may not allow his position, duty address, or duty phone number be used on the college letterhead or other promotional literature.

You Make the Call!

COL Hoohah is a member of an organization called “Support Your Army.” “Support Your Army” wants to use the post auditorium for a presentation. COL Hoohah decides to submit the request using his official position (Chief of Staff) and rank.

Is this permissible?

ANSWER



Inducement or coercion of benefits.

An employee, to include all Soldiers, shall not use or permit the use of his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives, or *persons with whom the employee is affiliated in a nongovernmental capacity.*

NO MEMBERSHIP OR POSITION IF OFFERED DUE TO OFFICIAL POSITION

- Membership or position in a PO may **not** be accepted if it was offered because of an employee's official position



NO SOLICITATION



- **Army personnel may not solicit subordinates or prohibited sources (e.g. contractors) in PO fundraising campaigns or membership drives**
- **Army personnel may not permit the use of their names in a PO solicitation that targets subordinates or prohibited sources**

CONFLICTS OF INTEREST PROHIBITED

- An employee who is an officer, director, or employee of a private organization may **not** participate in official DOD matters involving the organization.
- Employees may **not** represent a private organization to the Government.
- Exception: uncompensated representation for certain nonprofit professional, recreational, and similar organizations.

WIDELY ATTENDED GATHERINGS (WAGs)



- Unsolicited offer of free attendance or free food at an event
- Two parts
 - Is the event a WAG?
 - Is there an Army interest in you attending this event?
- Supervisor makes the determination of Army interest - **NOT you** as the invitee

Is The Event A WAG?

- Sponsor of the event - A large number of persons will attend and that persons with a diversity of views or interests will be present.
- Non-sponsor of the event – Minimum of 100 people are expected to attend.

HELP WANTED

Applicable



- Procurement Integrity Act
- 18 U.S.C. Section 208
- Joint Ethics Regulation
- Standards of Ethical Conduct for Executive Branch Employees

Seeking Employment Procurement Integrity Act

- Participating personally and substantially
- Competitive procurement
- Valued in excess of simplified threshold (currently \$130,000)
- You contact or are contracted by a bidder or offeror in the procurement

YOU MUST:

Requirements

- Promptly report the contact in writing to:
 - Your supervisor and
 - Ethics Counselor
- And*
- Reject the offer, *or*
- Disqualify yourself from further involvement in the procurement

Seeking Employment

Conflicts of Interest

- You may **not** take any official action that affects a company with which you are negotiating for employment or have an arrangement concerning prospective employment
- JER 5-301 applies to National Guard and enlisted personnel

*18 U.S.C. § 208
5 C.F.R. § 2635.402*

“Seeking Employment”

- 5 C.F.R.2635.603(b)
- You are “seeking employment” when you:
 - engage in negotiations
 - make unsolicited employment contact
 - includes sending resume
 - excludes requesting job application
 - respond to unsolicited proposal (except unconditional re



Termination of Seeking Employment

You are no longer “seeking employment” when:

- either party rejects proposal and discussions have terminated, or



- two months have passed after mailing resume and no response



Disqualification

To avoid violation:

- Take no action
- Written notice to supervisor (JER 2-204)
- Supervisor response:
 - Written
 - Recusal
 - Copy to Ethics Counselor & subordinates



Post-Government Employment



Post-Government Employment Restrictions

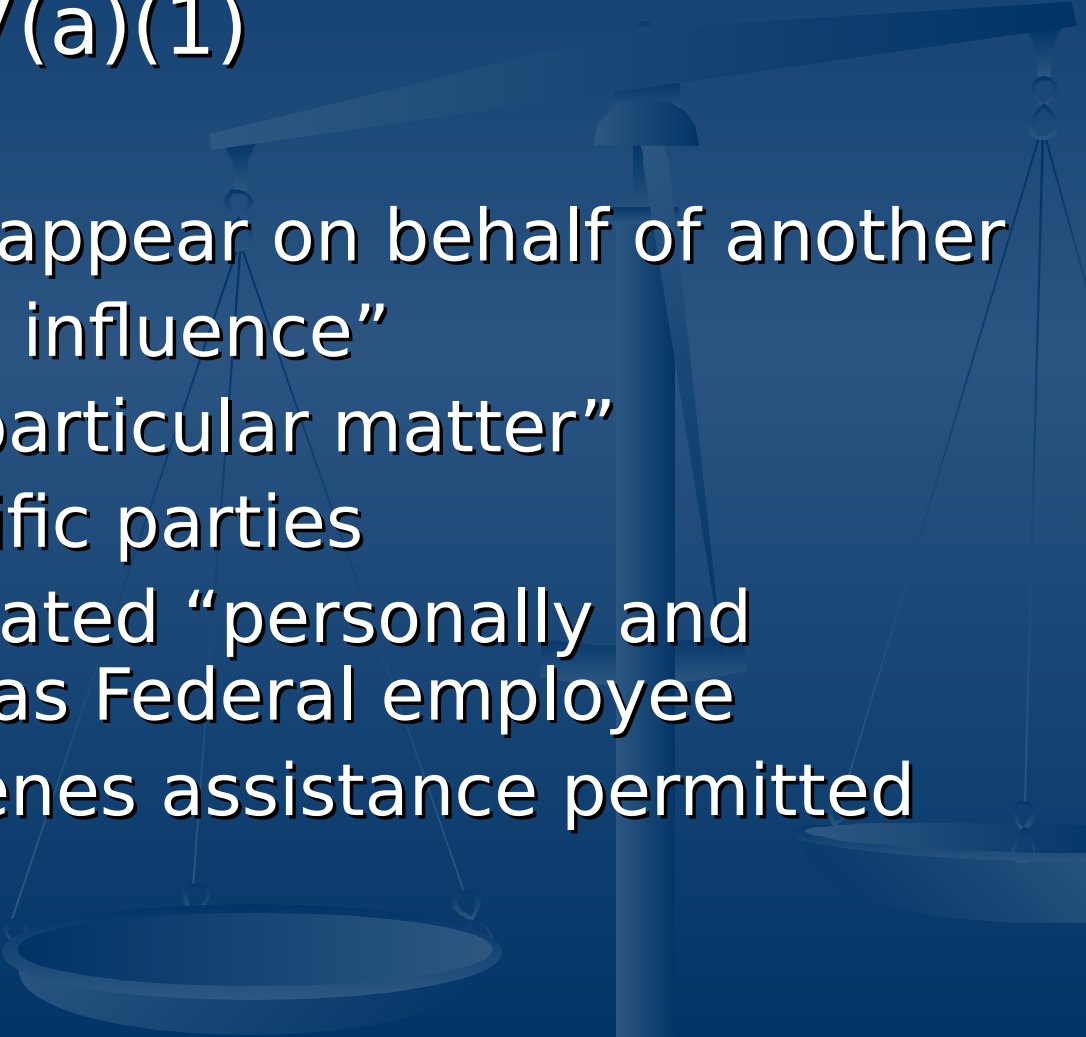
Representational Restrictions

18 U.S.C. § 207

Prohibits representing another before U.S. Government with intent to influence

- Lifetime ban
- 2-year ban
- 1-year cooling-off period for senior employees
- 1-year ban on senior employees representing foreign entities

Lifetime Ban

- 18 U.S.C. § 207(a)(1)
 - May not:
 - Communicate/appear on behalf of another
 - With “intent to influence”
 - Regarding a “particular matter”
 - Involving specific parties
 - Where participated “personally and substantially” as Federal employee
 - Behind-the-scenes assistance permitted
- 

Definitions

- **“Particular matter”** -- includes a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, or investigation. Generally, does not include rulemaking, formulation of general policy, standards or objectives, or other matters of general application.
- **“Intent to influence”** -- seeking some discretionary action, ruling, benefit, or approval. Does not include purely social contacts or requesting publicly available information.

Definitions (Continued)

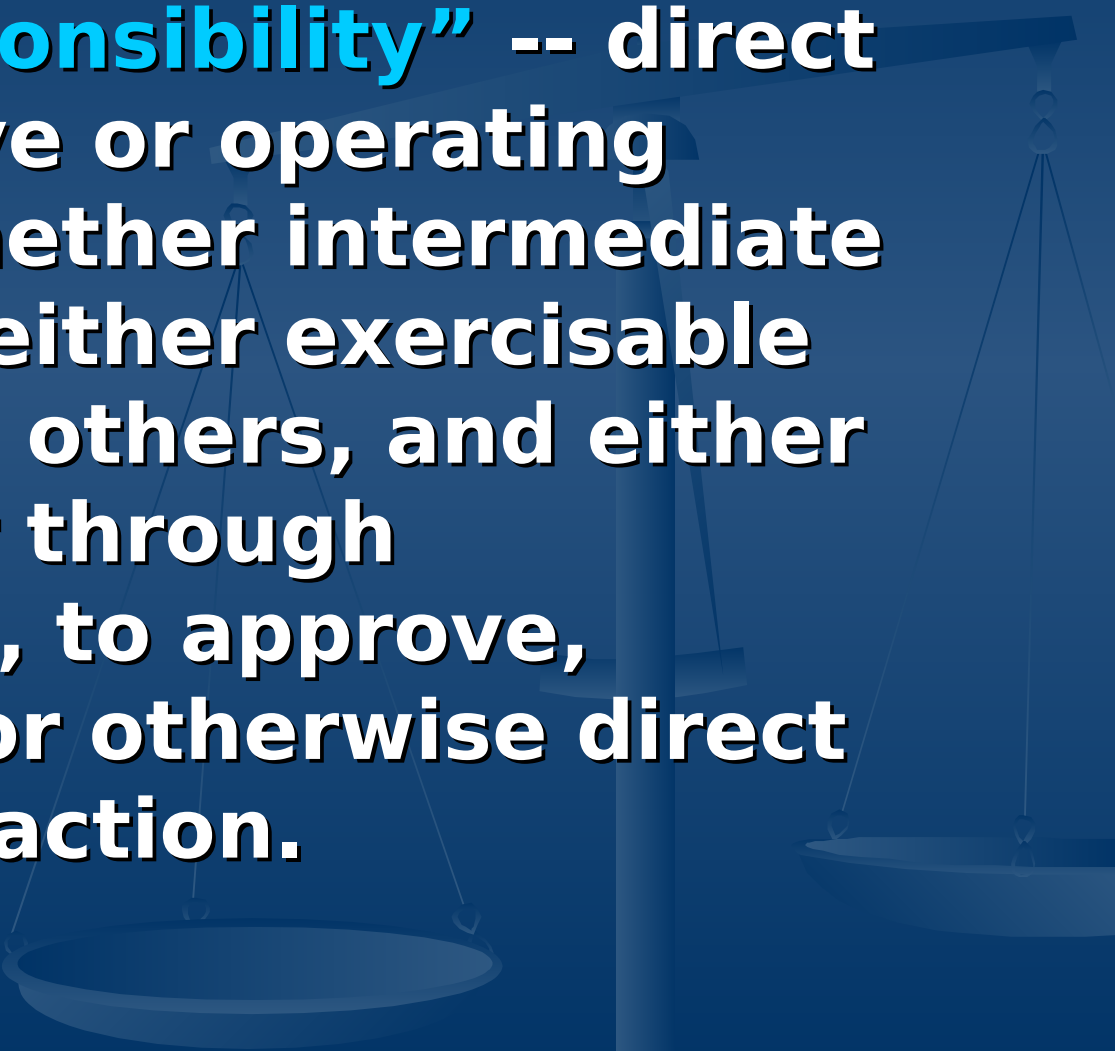
- Participate “personally and substantially” -- to participate directly and significantly by decision, approval, recommendation, rendering of advice or investigation. Includes actions of a subordinate if actually directed by the former employee.

2-Year Ban

- 18 U.S.C. § 207(a)(2). May not, within 2 years of termination of Government service
 - Communicate/appear on behalf of another
 - With “intent to influence”
 - Regarding a “particular matter”
 - Involving specific parties
 - Under “**official responsibility**” during last year of Government service
- Behind-the-scenes assistance permitted

Definitions

“Official responsibility” -- direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action.

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1-Year Cooling-Off Period

18 U.S.C. § 207(c)

- Applies to former senior employees(O-7 and SES Level 5 and above)
- Prohibits communication or appearance before **former agency**, on behalf of another with intent to influence, on any matter where official action is sought
- Behind-the-scenes assistance permitted
- Communications to other DoD components permitted



RECAP

- Prohibitions found in ethics and procurement laws and regulations may prevent a Soldier or civilian employee from receiving compensation from a particular contractor after his or her government service.
- While it may be permissible for a Soldier or civilian employee to work for a particular contractor, it may be impermissible to work on a particular contract or in a particular segment of a contractor's operations.

GIFTS



GIFTS

■ Basic Rule

- Federal Employees may not accept gifts offered because of their official position or offered by a “prohibited source.”
 - To include “indirect gifts”
 - Exception: You may except a gift from a employee contractor that is based on a bona fide personal relationship. (Such personal gift must be paid for by the individual rather than the contractor.)

Handling Improper Gifts from Outside Sources (5 C.F.R. § 2635.205)

When an employee cannot accept a gift, the employee shall:

- 1. Refuse the gift (if possible) and diplomatically explain the restrictions on acceptance of gifts by Federal employees.
- 2. Return the gift or pay the donor its fair market value.
- 3. Perishable items may be donated to charity, shared within the office, or destroyed with the approval of the supervisor or ethics counselor.

Holiday Reminders

- Supervisors may not accept gifts from subordinates who receive less pay.
 - Exception: During holidays, supervisors may accept gifts other than cash of \$10 or less from a subordinate.

CONCLUSION

- **Play it safe – ask your ethics counselor BEFORE taking any action**
- ***(MAJ Kelly Ambrose is the Ethics Counselor)***
- ***(304.561.6619)***
- **www.hqda.army.mil/ogc/eandf.htm**
- **www.jagcnet.army.mil**
 - **Office of Army General Counsel (Ethics & Fiscal)**
 - **Army Standards of Conduct Office**

Questions?

